

REMARKS

The above-identified patent application has been amended and reconsideration and reexamination are requested.

In an office action dated January 11, 2005, the examiner considered Applicant's prior Reply incomplete since it did not include argument as to why newly added claims 21-24 distinguished over the art. Such arguments are set forth at the end of the REMARKS section of this reply.

The examiner rejected claims 1-20 under 35 U.S.C. 102(b) as being unpatentable over Mosler et al. (US 6,304,858). Applicant has amended the claims, canceled claims 13 and 15, and added claims 21-24.

Claim 1 has been amended to recite "determining that a position calls for either a cash based margin protocol or an asset based margin protocol" and "determining margin requirements according to the determined margin protocol." As amended, claim 1 is allowable over the reference cited.

Claim 1 is directed to a method of clearing transactions on an electronic exchange. Mosler does not disclose nor suggest "determining that a position calls for either a cash based margin protocol or an asset based margin protocol." As understood, Mosler is directed solely to a method using a cash based margin protocol. (col. 4, lines 46-61, col. 12, lines 1-29, col. 30, lines 43-52). Mosler makes no mention of an asset based margin protocol. An asset based margin protocol is beneficial because it can reduce the costs of participating in futures markets without compromising risk management. Therefore, Mosler cannot be said to teach the step of "determining that a position calls for either a cash based margin protocol or an asset based margin protocol." Inherently, Mosler neither describes nor suggests determining margin requirements according to the determined margin protocol, because Mosler does not determine which protocol is used.

Claim 12, which is a computer program product claim with similar content to claim 1, is allowable for the reasons discussed in claim 1. Claim 20, which is a system claim with similar content to claim 1, is allowable for the reasons discussed in claim 1.

Claims 2-11, 14, and 16-19, which depend directly or indirectly on claims 1 or 12, are allowable for at least the reasons discussed in claim 1. Moreover, these claims add additional distinctive features. Claims 2 and 3 serve to distinguish between use of two margin protocols, which is not suggested in Mosler. Claim 2 for instance recites if a position calls for a cash margin protocol, the method includes sending to subscribers or subscriber depository or guaranteeing banks debits and/or credits; and updating the resulting balances in, each subscriber's account. Claim 3 on the other hand adds the feature of if "a position calls for an asset based margin protocol" the method further includes "disseminating position information but no daily pays or collects will take place so long as sufficient assets are already identified." The distinctions between claims 2 and 3 and claim 3 on its own further highlight the use of an asset based margin protocol in a trading system.

Claims 21-24 are new and add patentable matter.

Claim 21 depends from claim 20 and is allowable at least for the reasons discussed therein. Moreover, Mosler is understood to neither describe nor suggest disseminating position information but not causing daily pays or collects to take place so long as sufficient assets are already identified. Similarly, claim 22 depends from claim 20 and is allowable at least for the reasons discussed therein and distinguishes since Mosler neither describes nor suggests instructions to post a position for a subscriber to a subscriber trading account as soon as any portion of an order is filled.

Claim 23 depends from claim 20 and is allowable at least for the reasons discussed therein. Further, Mosler does not suggest instructions to determine whether the subscriber has a position at the other side of the market that can result in an offset of the position and the position at the other side of the market. Mosler does not suggest this offset feature. Claim 24 depends from claim 20 and is allowable at least for the reasons discussed therein and distinguishes since Mosler does not suggest instructions to liquidate the trade with any resulting credit or debit identified as a realized gain or loss in the subscriber's trading account.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or

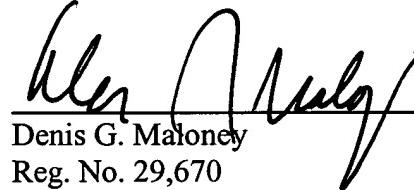
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concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Respectfully submitted,

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